

### **REMARKS**

#### **Formal Matters**

Claims 20, 22, 26-28 and 31-36 remain in this application. The Examiner has acknowledged that Claim 31 is directed to allowable subject matter. No new matter is added by the amendments.

In view of the Examiner's earlier restriction requirement, applicant retains the right to present withdrawn and cancelled subject matter in continuing prosecution (*e.g.*, continuations and divisionals).

Applicants previously indicated in the response filed July 11, 2006 that a declaration under 37 U.S.C. § 1.131 signed by Audrey Goddard, Ph.D. would be forthcoming. However, the Examiner's most recent Office Action of August 9, 2006 was mailed prior to the availability of Dr. Goddard, the rejection of Claims 20, 22, 26-28 and 31-36 under 35 U.S.C. § 102(e) as being anticipated by Sims *et al.* (US2003/0091532) was maintained.

Fully responsive to all outstanding rejections, Applicants enclose herewith a declaration under 37 U.S.C. § 1.131 signed by Audrey Goddard, Ph.D. (an inventor of the claimed invention) which effectively swears behind the US2003/0091532 (and WO 00/91532) reference, thereby effectively removing this references as a publication that can be relied upon in support of a rejection under 35 U.S.C. § 102(e). In this Declaration, Dr. Goddard provides facts demonstrating that the Applicants have reduced to practice the claimed IL1-1Ra1 polypeptide sequences prior to 22 June 2000. Applicants respectfully request consideration of this Declaration, respectfully request reconsideration and withdrawal of the rejection of Claims 20, 22, 26-28 and 31-36 under 35 U.S.C. § 102(e) as being anticipated by Sims *et al.* (US2003/0091532).

Appl. No. 09/869,566  
Amend. dated October 5, 2006  
Response to Office Action mailed on: August 9, 2006

Patent Docket **P2534-3**

### **SUMMARY**

Claims 20, 22, 26-28 and 31-36 are pending in the application.

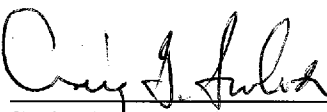
If in the opinion of the Examiner, a **telephone conference** would expedite the prosecution of the subject application, the Examiner is **strongly encouraged** to call the undersigned at the number indicated below.

This response/amendment is submitted with a transmittal letter. In the unlikely event that this document is separated from the transmittal letter or if fees are required, applicants petition the Commissioner to authorize charging our Deposit Account 07-0630 for any fees required or credits due and any extensions of time necessary to maintain the pendency of this application.

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,  
GENENTECH, INC.

Date: **October 5, 2006**

By:   
\_\_\_\_\_  
Craig G. Svoboda  
Reg. No. 39,044  
Telephone No. (650) 225-1489

218269